

January 17, 2014

Patrick Guida  
Ad Hoc Committee on Assessments  
and the Diploma System  
R.I. Department of Education  
255 Westminster Street  
Providence, RI 02903

Dear Mr. Guida:

I am writing to you, as chair of the Ad Hoc Committee, as well as to the other members of the Board, to raise serious concerns about the implementation – at both the local district and RIDE level – of the “waiver” process available to students to graduate high school this year without “passing” the NECAP test.

It is important for the Committee to realize that, as things currently exist, the waiver process is, in many instances, a completely arbitrary hodgepodge of inconsistent, incomplete, and poorly advertised policies that can only leave students and parents understandably anxious and perplexed. It is also of significant concern that the ability of students to avail themselves of the waiver process or to receive adequate help to qualify is dependent on the readiness and helpfulness of their particular school district, school or advocate. With test score results for seniors being released in less than two weeks, it is critical that immediate action be taken to address this unconscionable state of affairs.

Approximately two and a half months ago, the ACLU filed an open records request with all school districts to obtain a copy of their waiver policy as well as any documents related to its implementation, including any notice or instructions provided to parents or students about it and any forms that must be completed for a student to apply for a waiver. Such information is, obviously, essential for any meaningful waiver process, and required by RIDE’s guidance and regulations. The results of our request, however, were less than encouraging.

I have attached a spreadsheet that summarizes the responses we received. It indicates that a number of school districts had not yet finalized a policy, some had not even started one, and those that did have policies failed to address key issues. To be fair, we realize that many school districts have likely made progress since our request. At this point, however, it is our understanding that some school districts still do not have a waiver policy or process in place, and some that do still fail to provide adequate notice to students and parents about the process and what will need to be demonstrated to qualify for a waiver.

For example, some school districts appear to have merely adopted verbatim RIDE's template model "waiver process" that was prepared last August. The problem with this is that the model is a starting point; school districts have an obligation to fill in various blanks, such as specific procedures to be communicated to parents and identification of the specific evidence used in making waiver decisions. From the responses we received to our open records request, those details seem to have gone by the wayside in many instances, leaving parents with generic information but no definite guidance about the waiver process.

Perhaps the best way to explain the severity of the problem is to focus on one school district as an example. I will use Cumberland, not because it is necessarily the worst school district in this regard, as problematic as it is, but because we just received a complaint from a parent in that school district about it.

Yesterday, the parent received a generic letter from the high school principal about the imminent release of the NECAP test results (enclosed). The letter mentions the waiver process available to students who do not meet the NECAP score standard, but provides no details whatsoever about the process itself. As a result, the parent inquired why the letter did not mention the recently publicized information that a student's acceptance into college constitutes sufficient grounds for a waiver.\* The principal acknowledged this was "part of the acceptable evidence eligible during the waiver process," but added that prior to granting such a waiver "an alternate test *and third NECAP must be utilized.*" (emphasis added)

Yet there is nothing in RIDE's waiver protocols that mention waivers as being withheld until a third mini-NECAP test is taken. To the contrary, RIDE makes reference to the availability of waivers to students who do not get sufficient scores after taking the test *twice*. Nor is there anything in the school district's own policies specifying that three tests must first be taken. In any event, parents in Cumberland have absolutely no clue about this exemption because it has not been brought to their attention in any way.

When the parent asked for additional information about the waiver process, he received a "Waiver Policy" that – with one exception – appears identical to RIDE's model waiver process. The exception is that it includes the new "college/community service" exemption that RIDE announced last week. This is somewhat astonishing since the school district's waiver policy is dated August 2, 2013, the same date on RIDE's model policy. And despite its date, it was not provided to us in October in response to our open records request. Indeed, the only document we received from the Cumberland school district at that time contained only *one paragraph* about the waiver. The sudden appearance of the "college acceptance" waiver in the school district's policy only further highlights the completely arbitrary and ever-changing nature of the waiver process, not just at the district level but within RIDE itself.

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\* It is worth noting that this parent's child missed meeting the partial proficiency score by only two points. If she scores the same on her retest, she will not qualify for a diploma. On the other hand, under RIDE's "significant improvement" standard, students who scored much worse than her on both their first and second tests *will* get a diploma if their score improves on the second test.

Although the Commissioner has responded to this latest complaint of arbitrariness by arguing that the “college acceptance” waiver is really nothing new and merely an option for school districts to consider, that explanation contradicts RIDE’s own documents. Further, if it were truly optional, that would raise troubling questions of equity. But, fortunately, the information on RIDE’s website does not in any way suggest that this new exemption is merely an option for districts to consider.

I have enclosed a copy of a recently-posted “waiver tree” on RIDE’s website where this new exemption was, to our knowledge, unveiled for the first time. As I have previously noted, and contrary to the statements from Cumberland High School’s principal, the chart indicates that waiver consideration kicks in after two, not three, tests. More to the point, the middle branch discusses “multiple, varied and valid local evidence of the student’s proficiency at the state-required minimum level.” That evidence, according to the chart, makes the student *eligible for committee consideration of a waiver* of the NECAP requirement. But the branch dealing specifically with acceptance into college (or designed community service programs) says a student who meets that criterion is “*Awarded a Waiver for Testing Requirement*,” not *considered* for one. The second page of the chart also makes this distinction: it discusses “examples of valid local evidence” on the one hand and “*approved* post-secondary evidence” on the other.

Any parent who both listened to the Commissioner’s explanation of this exemption and looked at this chart would understandably be quite confused. In any event, it would be appalling if the college exemption applied in some districts but not in others based solely on whether the school district decided to include it.

We would also note that, while we welcome any new way for students to graduate without passing the NECAP, no matter how arbitrary it may be, it actually would have been impossible for a school district to have even considered a “college exemption” earlier because it appears to be directly contrary to RIDE’s guidance governing waivers.\*

As you know, the ACLU has objected for some time to the state’s use of the NECAP as a high stakes requirement, but as long as it is in place, the waiver process can provide a critical opportunity for youth who would not otherwise graduate to do so. Any expansion to that opportunity is welcome if it promotes a fair and equitable pathway for more young people to avoid being judged by a single test score. However, our concerns with the waiver process highlight the lack of readiness on both a statewide and local level to implement it, the confusion that exists over it, and the increasingly jerry-rigged nature of that process.

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\* That guidance makes clear that no student is eligible for a rarely-given waiver unless they clearly demonstrate proficiency in reading and mathematics in an alternative way. RIDE’s proficiency descriptions (contained in an appendix to its model waiver process) include a lengthy paragraph of what a student must know in order to demonstrate their proficiency in mathematics, and a “college acceptance” would not appear to demonstrate that.

Again, I wish to be clear. We fully support this new exemption and waiver processes while the NECAP is used as a high stakes test. But it is important for the Committee to realize that with NECAP results for seniors a week or so away, it appears that a number of school districts do not have in place the detailed waiver procedures and processes required of them, nor have they communicated those processes to parents and students. The standards themselves are still evolving, and subject to misunderstanding and misinterpretation by school officials and parents alike. It is also troubling that the new additions to the waiver policy do not include community college attendance as grounds for a waiver, thus exacerbating already existing inequities for lower income students who disproportionately begin postsecondary studies at such institutions, and who may not be able to afford to apply to “qualifying” colleges or universities.

Such a state of affairs is intolerable. It is yet one more reason why no student should fail to qualify for a diploma based on his or her NECAP scores. The difference between those students who did not get a partially proficient score and will graduate, and those who do not get a partially proficient score and will not graduate has become utterly capricious.

The pretense that particular NECAP scores are necessary or important for graduation has long since been abandoned. Yet youth continue to be forced through multiple test retakes and complicated waiver procedures that eat up enormous time and resources and that threaten to exacerbate existing inequities without improving outcomes. In light of the information we have about the waiver process, we urge the Committee to eliminate this unfairness by calling on the full Board to eliminate a NECAP score as a determinant of who will graduate.

Thank you in advance for considering this.

Sincerely,

Steven Brown  
Executive Director

cc: Board of Education  
Commissioner Deborah Gist